

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF PUERTO RICO

3 UNITED STATES OF AMERICA

4 Plaintiff,

5 v.

6 THOMAS EDDIE FERNANDEZ-CRUZ

7 Defendant.

Criminal No. 13-143 (DRD)

8 **ORDER APPROVING MAGISTRATE-JUDGE'S**  
9 **REPORT AND RECOMMENDATION RE: RULE 11 PROCEEDINGS**

10 The Court has evaluated the Magistrate-Judge's Report and Recommendation of the Rule 11  
11 proceedings regarding defendant THOMAS EDDIE FERNANDEZ-CRUZ, contained in the Report  
12 and Recommendation dated June 19, 2013, Docket No. 32.

13 The principal consideration is whether that plea was knowingly, voluntary and intelligently  
14 made within the terms of Rule 11, United States v. Isom, 85 F. 3d 831, 835-837 (1 Cir. 1996). In  
15 order to ascertain whether defendant made a knowingly, voluntary and intelligent plea, the Court of  
16 Appeals of the First Circuit has identified three core concerns: absence of coercion, defendant's  
17 understanding of the charges and the defendant's knowledge of the consequences of the guilty plea.  
18 United States v. Gray, 63 F. 3d 60-61, (1st Cir. 1995), United States v. Cotal Crespo, 47 F. 3d 1, 4  
19 (1st Cir.) cert. denied 516 U.S. 827, 116 S. Ct. 94 (1995).

20 The Court in examining the three core concerns must "review the totality of the  
21 circumstances surrounding the Rule 11 hearing, rather than apply a 'talismatic test'," United States  
22 v. Cotal Crespo, 47 F. 3d at 4-5.

The Court having examined the Report and Recommendation of the Magistrate Judge finds that the plea was knowingly, voluntary and intelligent as understood in the terms of Rule 11. The plea of defendant THOMAS EDDIE FERNANDEZ-CRUZ, is therefore, accepted and the defendant is adjudged guilty as to Count One (1) of the Indictment.

IT IS SO ORDERED.

At San Juan, Puerto Rico, this 7<sup>th</sup> day of October, 2013.

S/ DANIEL R. DOMÍNGUEZ  
DANIEL R. DOMÍNGUEZ  
U.S. DISTRICT JUDGE